

NOTICE

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2014 IL App (4th) 140524-U

NO. 4-14-0524

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

October 10, 2014

Carla Bender

4th District Appellate

Court, IL

In re: C.F., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	McLean County
v.)	No. 12JA53
SARAH LANZRATH,)	
Respondent-Appellant.)	Honorable
)	Kevin P. Fitzgerald,
)	Judge Presiding.

JUSTICE TURNER delivered the judgment of the court.

Justices Harris and Steigmann concurred in the judgment.

ORDER

¶ 1 *Held:* The appellate court found (1) respondent forfeited her due-process argument and (2) the trial court did not err in terminating her parental rights.

¶ 2 In July 2012, the State filed a petition for adjudication of wardship with respect to C.F., the minor child of respondent, Sarah Lanzrath. In September 2012, the trial court made the minor a ward of the court and placed custody and guardianship with the Department of Children and Family Services (DCFS). In August 2013, the State filed a petition to terminate respondent's parental rights. In January 2014, the court found respondent unfit. In May 2014, the court found it in the minor's best interest that respondent's parental rights be terminated.

¶ 3 On appeal, respondent argues (1) she was denied due process and (2) the trial court erred in terminating her parental rights. We affirm.

¶ 4 I. BACKGROUND

¶ 5 In July 2012, the State filed a petition for adjudication of wardship with respect to C.F., born in June 2012, the minor child of respondent and Jeremy Foster. The petition alleged C.F. was a neglected minor pursuant to section 2-3(1)(d) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(d) (West 2012)) because he was left by respondent without supervision for an unreasonable period of time as he was found alone in an unlocked apartment and there was no adult present for at least 10 minutes. The petition also alleged C.F. was a neglected minor pursuant to section 2-3(1)(b) of the Act (705 ILCS 405/2-3(1)(b) (West 2012)) because he resided in an environment injurious to his welfare in that Foster had unresolved issues of substance abuse. The trial court entered a temporary custody order, finding probable cause for the filing of the petition.

¶ 6 In August 2012, the trial court found the minor was abused or neglected based on the inadequate supervision. The court noted the neglect and/or abuse was inflicted by respondent. In its September 2012 dispositional order, the court found respondent unfit to care for, protect, train, educate, supervise, or discipline the minor and placement with her would be contrary to the health, safety, and best interest of the minor because respondent needed to complete individual counseling, establish stable employment and provide appropriate housing, and be honest about her relationship with Foster. The court also found Foster unfit, noting he tested positive for cannabis and cocaine, he had been uncooperative with his caseworker, he had not participated in services, and he failed to show up for drug screens requested by his caseworker. At the dispositional hearing, the court stated to respondent, in part, as follows:

"But, ma'am, we have all kinds of couples come through here. And there's nothing wrong with being a couple, and there's nothing wrong with a couple trying to get a child back. But if one

of the parties isn't cooperating with services, is not going to attain fitness, then the other party needs to understand that you cannot have this child returned to you if you are in a relationship with Mr. Foster. If he would turn around, that would be another thing, but he's got a pretty long laundry list of things he needs to get through, and he hasn't even started number one yet. So, and I think you understand that, because I think that's how you tailored your testimony."

The court made the minor a ward of the court and placed custody and guardianship with DCFS.

¶ 7 In November 2012, the trial court conducted a permanency hearing. While represented by counsel, respondent testified she had been less than truthful in previous testimony about her contact with Foster. She admitted having phone contact with him but denied they had a romantic relationship. The trial court stated, in part, as follows:

"And I think that you understand that as long as he is unfit and doesn't get services, you cannot have a relationship with him because you have to pick one or the other. You can't have both. And I'm hearing you say you made the decision. You have to understand you have a little bit of credibility problems here. When you got up on the stand, the first thing you said is well, I don't think I was dishonest. I was unclear. You were dishonest the last time, ma'am. And so everyone here in this courtroom involved in this case has credibility issues with you."

The court found respondent fit but noted concerns remained about her being truthful regarding

her relationship with Foster. The court found Foster unfit.

¶ 8 In a December 2012 permanency order, the trial court found respondent fit, noting she had established a stable income and secured appropriate housing. The court also found she had been attending counseling and appeared to have established a strong bond with C.F. The court found Foster unfit, stating his whereabouts were unknown and he had not participated in services.

¶ 9 In May 2013, the trial court conducted a permanency hearing in which the State indicated respondent remained fit and recommended closing the case and releasing DCFS as guardian and custodian. The guardian *ad litem* concurred in the recommendation that the case be closed. The court stated, in part, as follows:

"I think mom is probably one of the best educated mothers we have seen in this courtroom, and there's no question she knows the rules. But there's certainly a suggestion that she's not abiding by them, which is really troubling. Mr. Foster has a lot of issues, and he would need a lot of services before I think it would be safe to have [C.F.] around him."

When the court asked C.F.'s foster mom, Valerie Wright, who is also Jeremy Foster's mother, whether she knew of any contact he had with respondent or C.F., she nodded in the affirmative. The court then decided not to close the case. The court's permanency order indicated C.F. had been returned to respondent in January 2013. While the court found her fit, it indicated it would continue to monitor the case for contact between respondent and Foster.

¶ 10 In August 2013, the trial court conducted a permanency hearing. At the start of the hearing, respondent's counsel moved to withdraw. Thereafter, respondent and Foster

proceeded *pro se*. Valerie Wright testified respondent and Foster came to her home with C.F. on Mother's Day in May 2013. Respondent testified she reestablished contact with Foster in October 2012. She also stated Foster had been around C.F. since March 2013. Respondent stated her intentions were that C.F. "should be able to have contact with his father and his father contact with his son." Respondent stated, in part, as follows:

"I understand the Court has a different opinion, but I know Jeremy is no threat to [C.F.] and he has not been harmed ever and, you know, in my heart and God's eyes that's the right thing to do. And I do apologize for, you know, going against what the Court recommended, but there are, I mean, two competent parents fighting for and wanting their son to come home who was taken at three weeks old. And so being a fit parent, I, you know, I knew that there was no potential problem with him seeing [C.F.]"

The court found respondent and Foster unfit. The court stated as follows:

"Ma'am, if you are insisting on maintaining that relationship, and it's pretty apparent to me that you are—and if you told me you weren't I wouldn't believe you based on what you've done over the past five months of this case—your ability to be reunified with your son is going to depend on Mr. Foster attaining fitness. So, if he does not attain fitness and you stay with him, you will not be reunified with your son. You need to understand that. And you're not going to determine that you're fit. Mr. Foster is not going to determine that he's fit. That's my obligation, and that's

what I intend to do in this case."

¶ 11 In August 2013, the State filed a petition to terminate respondent's and Foster's parental rights. The petition alleged respondent was unfit because she failed to (1) maintain a reasonable degree of interest, concern, or responsibility as to the minor's welfare (750 ILCS 50/1(D)(b) (West 2012)) and (2) protect the child from conditions within his environment injurious to his welfare (750 ILCS 50/1(D)(g) (West 2012)).

¶ 12 In a September 2013 permanency order, the trial court found respondent and Foster unfit. The court noted respondent had stable income and housing. However, respondent had not been attending counseling, was not cooperating with drug screens, and missed visitations with C.F. The court found Foster had adequate housing, completed a psychological evaluation, and was participating in a parenting class. However, Foster had not cooperated with drug screens and refused to provide employment verification or a release of information from his therapist. The court ordered the parties to undergo mediation.

¶ 13 In January 2014, the trial court held a hearing on the petition to terminate parental rights. Respondent and Foster appeared *pro se*. Kimberly Martin-Corcoran, a therapist at the Center for Youth and Family Solutions (CYFS), testified respondent had been her client since August 2012. She stated the issues being addressed with respondent were anger management and stress management. Martin-Corcoran stated her concern was respondent's continued relationship with Foster, as "some of the conditions that have brought [C.F.] into care have not been corrected." She stated respondent and Foster were still together even after Foster's December 2013 arrest for cocaine possession. Although Martin-Corcoran stated respondent had the ability to be a good parent, she was concerned C.F. would be at risk if respondent resided with Foster.

¶ 14 Respondent testified to her misdemeanor conviction for leaving a child unattended. She stated C.F. was returned to her care in January 2013 and removed in June 2013. She stated Foster moved back in March 2013, and she allowed him to have unfettered access to C.F. even though she knew he was not participating in services. She stated her intentions were to raise C.F. as a family. She stated Foster is participating in classes but admitted his cocaine arrest was not a positive development. On examination by Foster, respondent stated her belief that his felony arrest did not prohibit him from being a good parent.

¶ 15 Mallory Pimentel, a CYFS foster-care worker, testified she conducted the first case review in January 2013. Foster was not present, and Pimentel stated he had called her to state he was living in Kansas City and would not be coming back to Illinois for a couple of years because of his outstanding warrants. Pimentel stated respondent was rated satisfactory for cooperation with DCFS, counseling, adequate housing, and visitation. Pimentel stated she would rate respondent unsatisfactory as of January 2014 because she had missed 15 out of 48 visits, had been guarded in counseling, failed to provide Pimentel with pay stubs, and had inadequate housing due to residing with Foster.

¶ 16 Jeremy Foster testified and admitted to possessing cocaine, calling it "a really big mistake." He stated he was participating in his service plan and "it's almost done."

¶ 17 Respondent testified she thought progress in regard to services "would equal a fit parent, not necessarily completion." Although she admitted mistakes had been made, she believed "a lot of progress" had been made in the right direction.

¶ 18 Following closing arguments, the trial court found respondent and Foster unfit. In part, the court stated as follows:

"Ma'am, you were found fit and [C.F.] was returned to you.

You knew that if you reengaged in a relationship with Jeremy that [C.F.] would be removed from your care. You knew that. You lied about it. You tried to hide it. You knew that you were risking him being removed from your care if you took Jeremy back into your home, which you did."

¶ 19 In March 2014, the trial court conducted the best-interest hearing. Respondent and Foster proceeded *pro se*. The best-interest report indicated respondent was living in a one-bedroom apartment in Normal and was participating in counseling. Respondent testified she was separated from Foster and they lived in different apartments. C.F. had been residing with his paternal grandparents since June 2013.

¶ 20 Melvin Wright, C.F.'s foster parent and grandfather, testified he is Foster's stepfather. He stated C.F. is "doing very well" in the home. Wright stated he and his wife "would be more than willing to adopt" C.F. Wright stated he has diabetes, which is under control. He would not object to C.F.'s biological parents from visiting with the minor, but it would be in the home and supervised. Wright, age 59, stated he worked as the director of information technology at State Farm Insurance Company and planned to work at least three more years.

¶ 21 The trial court continued the best-interest hearing until May 2014. Respondent appeared with counsel, and Foster appeared *pro se*. Mallory Pimentel testified respondent's service-plan goals included counseling, visitation, cooperation, employment and housing, and drug screenings. Pimentel stated domestic violence as a perpetrator was never an issue for respondent, but Pimentel "had a concern that maybe not physical violence was happening but maybe emotional mental abuse was going on." Pimentel stated no assessments were made as

there were no police reports to confirm her concerns.

¶ 22 Respondent testified she worked full-time as a registered nurse at a nursing home in Bloomington. She believed she could emotionally care for C.F. She continued to believe Foster should have a relationship with C.F.

¶ 23 Following closing arguments, the trial court found it in the minor's best interest that parental rights be terminated. As to respondent, the court stated, in part, as follows:

"Ms. Lanzrath, she was obvious—when she presented to the Court, she's probably one of the most educated and intelligent mothers that we've had in here. We don't get many with college educations, we don't get many registered nurses. So I thought that she could breeze through her services and obtain fitness, which she did. She got [C.F.] back I think before—really close to Christmas. I know that I set a permanency hearing right before Christmas. So we were looking to transition back, so it may have been January. But she got him back quicker than 99 percent of the parents in this courtroom. But her problem was that she allowed Mr. Foster back into her life. And she lived a lie in Ottawa where she had him move in and came down and said the relationship was over, and it was finally uncovered, and then she lied on the stand the last two times that we were here. Not today, I believe that she was testifying truthfully today about the contact and such, but she lied the last two times we were here. For me to be able to trust that she is going to protect [C.F.], particularly when she says she agrees

that it's in his best interest that the two of them parent together, Mr. Foster asked her that and she admitted that. So I have no confidence that in the future—and we're not talking about while the case is still necessarily in court. If Mr. Foster never achieves a fitness finding and the case would close, and if Sarah would be restored to custody, I have no confidence whatsoever that she would not allow Mr. Foster back into her life and into [C.F.'s] life."

This appeal followed.

¶ 24 II. ANALYSIS

¶ 25 A. Due Process

¶ 26 Respondent argues she was denied due process, where DCFS failed to provide reunification services in the form of domestic-violence treatment for her as a victim. However, this argument was procedurally defaulted because respondent failed to raise this issue in the trial court. See *In re M.W.*, 232 Ill. 2d 408, 430, 905 N.E.2d 757, 772 (2009) (stating a respondent's failure to object at trial forfeits consideration of the claimed error). By failing to raise her due-process claim, respondent deprived the trial court of an opportunity to adequately address her concerns. Thus, as the issue is forfeited, we will not address the merits of respondent's claim.

¶ 27 B. Best-Interest Finding

¶ 28 Respondent does not contest the trial court's unfitness findings. Instead, she argues the court's decision to terminate her parental rights was against the manifest weight of the evidence. We disagree.

¶ 29 "Courts will not lightly terminate parental rights because of the fundamental importance inherent in those rights." *In re Veronica J.*, 371 Ill. App. 3d 822, 831, 867 N.E.2d

1134, 1142 (2007) (citing *In re M.H.*, 196 Ill. 2d 356, 362-63, 751 N.E.2d 1134, 1140 (2001)).

Once the trial court finds the parent unfit, "all considerations must yield to the best interest of the child." *In re I.B.*, 397 Ill. App. 3d 335, 340, 921 N.E.2d 797, 801 (2009). When considering whether termination of parental rights is in a child's best interest, the trial court must consider a number of factors within "the context of the child's age and developmental needs." 705 ILCS 405/1-3(4.05) (West 2012). These include the following:

"(1) the child's physical safety and welfare; (2) the development of the child's identity; (3) the child's familial, cultural[,] and religious background and ties; (4) the child's sense of attachments, including love, security, familiarity, continuity of affection, and the least[-]disruptive placement alternative; (5) the child's wishes and long-term goals; (6) the child's community ties; (7) the child's need for permanence, including the need for stability and continuity of relationships with parent figures and siblings; (8) the uniqueness of every family and child; (9) the risks related to substitute care; and (10) the preferences of the person available to care for the child."

In re Daphnie E., 368 Ill. App. 3d 1052, 1072, 859 N.E.2d 123, 141 (2006).

See also 705 ILCS 405/1-3(4.05)(a) to (j) (West 2012).

¶ 30 A trial court's finding that termination of parental rights is in a child's best interest will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Anaya J.G.*, 403 Ill. App. 3d 875, 883, 932 N.E.2d 1192, 1199 (2010). A decision will be found to be against the manifest weight of the evidence in cases "where the opposite conclusion is

clearly evident or where the findings are unreasonable, arbitrary, and not based upon any of the evidence." *In re Tasha L.-I.*, 383 Ill. App. 3d 45, 52, 890 N.E.2d 573, 579 (2008).

¶ 31 The best-interest report indicated C.F. is a happy, healthy, and developmentally on target young boy. Born in June 2012, C.F. resided with his foster parents from August 24, 2012, to January 14, 2013, when he was returned to respondent's care. He was returned to his foster parents on June 11, 2013, and has remained in their home. The report indicated C.F. is well cared for, is "very attached" to his foster parents, and "appears comfortable and safe" in their home. Melvin Wright testified he and his wife were willing to provide permanency and adopt C.F.

¶ 32 The report indicated respondent lived in a one-bedroom apartment and had participated in counseling. She had a full-time job as a nurse. She did well when visiting with C.F. and a bond existed between mother and son.

¶ 33 The evidence indicated C.F. is in a loving and safe foster home and his needs are being met. Of all the best-interest factors, the trial court noted permanency for C.F. was the most important factor in this case. While respondent no doubt loves her son and a bond exists between them, her repeated lies to the court during the pendency of this case indicates she has put her interests before those of C.F. The evidence indicated Foster failed to complete services and was arrested for possessing cocaine in December 2013. Still, respondent allowed him in her and C.F.'s lives and continued to think the "whole situation is unfair." Considering the evidence and the best interest of C.F., most importantly his physical safety and welfare and his need for permanency in his young life, we find the court's order terminating respondent's parental rights was not against the manifest weight of the evidence.

¶ 34 III. CONCLUSION

¶ 35 For the reasons stated, we affirm the trial court's judgment.

¶ 36 Affirmed.